

S.D.N.Y.-N.Y.C.  
05-cv-1897  
Baer, J.

# MANDATE

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 2<sup>nd</sup> day of June, two thousand eleven,

Present:

Amalya L. Kearse,  
Rosemary S. Pooler,  
Gerard E. Lynch,  
*Circuit Judges.*

**USDC SDNY  
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DATE FILED: June 2, 2011**

Dynex Capital, Inc., *et al.*,

*Petitioners,*

Lehman Brothers, Inc., *et al.*,

*Defendants,*

v.

11-1040-mv

Teamsters Local 445 Freight Division Pension Fund, on its  
own behalf and on behalf of all others similarly situated,

*Respondent.*

Petitioner moves, pursuant to Federal Rule of Civil Procedure 23(f), for leave to appeal the district court's order granting class certification. Upon due consideration, it is hereby ORDERED that the petition is DENIED, because an immediate appeal is unwarranted. *See Hevesi v. Citigroup Inc.*, 366 F.3d 70, 76, 76 n.4 (2d Cir. 2004) (citing *In re Sumitomo Copper Litig.*, 262 F.3d 134, 139-40 (2d Cir. 2001)).

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

Catherine O'Hagan Wolfe



Catherine O'Hagan Wolfe

MANDATE ISSUED ON 06/02/2011